

**Testimony of  
Jim Brown  
On behalf of the Montana Association of Churches**

**In support of Senate Bill 185, a bill to Abolish the  
Death Penalty in Montana and Replace it with the  
Penalty of Life in Prison Without the Possibility of  
Release.**

**Sponsored by Senator Dave Wanzonried**

**Senate Judiciary Committee  
February 8, 2011**

- **Mr. Chairman, members of the Committee**
- **My name is Jim Brown, I am here today to speak on behalf of the membership of the Montana Association of Churches**
- **MAC is made up of nearly 600 Montana churches, whose membership constitutes roughly 190,000 Montanans from all walks of life.**
- **Today, these Montana churches and Montana citizens speak with one clear, unified voice.**
- **Today, they ask you, as the members of the Senate Judiciary Committee, to lend your support to ending state-sponsored homicide in Montana.**
- **That is, MAC's membership stands unified in requesting that this Committee join with 15 other states and the District of Columbia in ending use of the death penalty.**

- **MAC's membership understands that there is no higher value than the preservation of human life.**
- **And the members of MAC recognize that government does not carry out its constitutional directive to preserve life, to promote the general welfare, or to secure for its citizens the blessings of liberty when it sanctions and actively participates in the taking of life.**
- **That is why for more than 25 years, the Montana Association of Churches has actively voiced its opposition to, and worked to end, the employment of the death penalty in this beautiful state.**
- **As stated, the basis for MAC's membership's opposition to state-sanctioned homicide is rooted in our shared belief that there is a purpose to every human life.**
- **It is also rooted in our shared belief that the purpose of a just government is not to debase the sanctity of life by cloaking the taking of life in a form of justice that is nothing more than retributive and vindictive.**
- **To be sure, MAC's membership recognizes that government has the authority and duty to protect its citizenry from violence and crime.**
- **But, the question needs to be answered. What kind of message is sent when government seeks to deter murder by murdering itself?**
- **The Catholic Conference answered that question by stating that the death penalty offers the tragic illusion that we can defend life by taking life.**

- Further, a 2009 study published in the Journal of Criminal Law and Criminology concluded that “there is overwhelming consensus among America’s top criminologists that the empirical research conducted on the deterrence question fails to support the threat or use of the death penalty.”
- But it is not just the false premises on the deterrence value of the death penalty that underlay MAC’s opposition to Montana’s death penalty.
- Numerous studies show that:
  - (i) application of the death penalty is costly and actually diverts scarce resources away from crime prevention, as is shown by the fact that every dollar spent on a capital case is a dollar that is not spent on policing programs known to reduce crime;
  - (ii) the death penalty is not an effective crime deterrent, particularly so in Montana where its rarely applied and is likely not to be applied in the foreseeable future;
  - (iii) the death penalty leads to the state-sponsored taking of innocent life, as evidenced by the fact that more than 138 people have been released from death row since the death penalty was reinstated in 1973;
  - (iv) physical evidence is always a better and more legally-sound means of obtaining a conviction against accused persons than is the tactic of

**threatening accused persons with death if they don't confess;**

- **(v) numerous studies show that the penalty is applied disproportionately to the poor, to minorities, and to those living in certain areas of the State;**
  - **(vi) the death penalty perpetuates victimization of the innocent, namely for the family members of those who have committed the crime leading to imposition of the death penalty; and**
  - **(vi) the death penalty rarely brings healing to the family members of victims and never restores the life of the victim(s).**
- 
- **As evidenced by these arguments, which are based on facts, the death penalty promotes everything government should not promote – government inefficiency, waste of public resources, and morally unsupportable actions and positions.**
  - **On the other hand, a penalty of life without the possibility of parole avoids all of these aforementioned problems, while, at the same time, ensuring that:**
  - **(i) murder victims' families and loved ones have the opportunity to move through the stages of grief that eventually lead to forgiveness, reconciliation and healing;**

- (ii) the State is never placed in the position of having taken innocent life;
- (iii) those tasked with carrying out the death penalty are not used as an instrument of death, thereby degrading their humanity; and
- (iii) the condemned individual has the time and opportunity for reconciliation and restoration of the soul with God.
- Contrary to what some might argue today, ending the death penalty is not a license to release those who commit the most heinous of crimes back onto the streets.
- A sentence of life without the possibility of release means, barring exoneration, the person sentenced will never see the outside of a prison cell for the remainder of his or her life.
- In that way, this sentence, like the death penalty sentence, both provides a measure of finality and resolution to a murder case and ensures that a person who wrongly takes another individual's life will never be in a position to freely kill again.
- Further, as I mentioned earlier, life without the possibility of parole eliminates the risk of an irreversible state-sanctioned taking of innocent life while also protecting the public and allowing the money saved from lengthy death penalty trials and appeals to be spent on programs that actually benefit society – such as infrastructure, increased

police protection, mental health services, and rehabilitative services for crime victims and their families.

- On behalf of the membership of MAC, I very much appreciate the opportunity to testify today.
- I have brought with me today MAC's position paper on capital punishment and ending the application of the death penalty. I have also brought with me several articles that discuss the high cost of the death penalty and the movement by states across the country to end this practice.
- Further, to those who would question my use of the words state-sponsored homicide, I have attached herewith the Montana Certificate for Terry Allen Langford who was put to death by the State of Montana in 1998. As is plainly evidenced on the Death Certificate, the cause of death recognized by the State of Montana is "homicide".
- In closing, I would ask each member of this Committee, before he or she votes on this legislation, to keep in mind that repeal of the death penalty sentence is not a partisan issue; it is a matter of recognizing and respecting the sanctity of human life and it is a matter of good government.
- I urge this Committee to take advantage of this historic opportunity to end the state-sponsored

**taking of life in Montana by giving SB185 a 'do-pass.**

- **Thank you, Mr. Chairman.**

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 MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, VITAL RECORDS AND HEALTH STATISTICS BUREAU.

FORM V.S. 3 (1988 revision)

MONTANA  
CERTIFICATE OF DEATH

Local File Number		State File Number	
DECEDENT'S NAME (First)		(Middle)	(Last)
1. Terry		Allen	Langford
SEX		DATE OF DEATH (Month, Day, Year)	
2. Male		3. Feb. 24, 1998	
RACE - American Indian, Black, White, etc. (Specify)		AGE - Last Birthday (Years)	UNDER 1 YEAR
4. White		5a. 31	UNDER 1 DAY
DATE OF BIRTH (Month, Day, Year)		COUNTY OF DEATH	
5. May 18, 1966		7a. Powell	
7b. PLACE OF DEATH (Check only one)			
HOSPITAL: <input type="checkbox"/> Inpatient <input type="checkbox"/> ERI Outpatient <input type="checkbox"/> DOA OTHER: <input type="checkbox"/> Nursing Home <input type="checkbox"/> Residence <input checked="" type="checkbox"/> Other (Specify)			
FACILITY NAME (If not institution, give street and number)			
Montana State Prison Maximum Security Execution Chamber Deer Lodge, Mt.			
BIRTHPLACE (City and State or Foreign Country)		MARITAL STATUS	
8. Lebanon, Ky.		9. <input checked="" type="checkbox"/> Never Married <input type="checkbox"/> Widowed <input type="checkbox"/> Married <input type="checkbox"/> Divorced	
SOCIAL SECURITY NUMBER		DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired.)	
11. 406-08-9723		12a. General labor	
RESIDENCE - STATE		COUNTY	CITY, TOWN, OR LOCATION
14a. Montana		14b. Powell	14c. Deer Lodge
INSIDE CITY LIMITS? (Yes or no)		ZIP CODE	STREET NUMBER
14e. No		14f. 59722	14d. 700 Conley Lake Rd.
ANCESTRY - Mexican, Puerto Rican, Cuban, African, English, Irish-German, Hmong, etc. (Specify)		16. DECEDENT'S EDUCATION (Specify only highest grade completed)	
15. American		Elementary/Secondary (0-12) College (13-16 or 17+)	
12. 12			
FATHER'S NAME (First, Middle, Last)		MOTHER'S NAME (First, Middle, Maiden Surname)	
17. Charles Langford		18. Donna - -	
INFORMANT'S NAME (Type/Print)		MAILING ADDRESS (Street and Number or Rural Route Number, City or Town, State, Zip Code)	
19a. Montana State Prison Records		19b. 400 Conley Lake Rd. Deer Lodge, Mt.	
METHOD OF DISPOSITION		PLACE OF DISPOSITION (Name of cemetery, crematory, or other place)	
<input type="checkbox"/> Burial <input checked="" type="checkbox"/> Cremation <input type="checkbox"/> Removal from State		20b. Crematory	
20a. <input type="checkbox"/> Other (Specify)		LOCATION - City or Town, State	
20c. Missoula, Montana			
SIGNATURE OF FUNERAL SERVICE LICENSEE OR OTHER PERSON IN CHARGE OF DISPOSITION		MONTANA LICENSE NUMBER (of Licensee)	
21a. <i>[Signature]</i>		21b. 375	
NAME AND ADDRESS OF FACILITY		22. 59722	
21c. Jewell Funeral Home 601 Missouri Deer Lodge, Mt.			
23. PART I. Enter the diseases, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. (See instructions on other side)			
IMMEDIATE CAUSE (Final disease or condition resulting in death)			
a. Mixed Drug and Electrolyte Toxicity			
DUE TO (OR AS A CONSEQUENCE OF): 1. Sodium Pentothal			
2. Pavulon			
DUE TO (OR AS A CONSEQUENCE OF): 3. Potassium Chloride			
Judicial Execution			
DUE TO (OR AS A CONSEQUENCE OF):			
PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.			
WAS AN AUTOPSY PERFORMED? (Yes or no)		24b. WERE AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH? (Yes or no)	
24a. No		24c. Yes	
WAS CASE REFERRED TO CORONER? (Yes or no)			
25. Yes			
26. MANNER OF DEATH		DATE OF INJURY (Month, Day, Year)	
<input type="checkbox"/> Natural <input type="checkbox"/> Pending Investigation		27a. 2/24/1998	
<input type="checkbox"/> Accident <input type="checkbox"/> Could not be determined		TIME OF INJURY	
<input type="checkbox"/> Suicide <input checked="" type="checkbox"/> Homicide		27b. 12:07 AM	
PLACE OF INJURY - At home, farm, street, factory, office, building, etc. (Specify)		INJURY AT WORK? (Yes or no)	
27c. Montana State Prison		27d. No	
DESCRIBE HOW INJURY OCCURRED		LOCATION (Street and Number or Rural Route Number, City or Town, State)	
27e. Judicial Execution		700 Conley Lake Road	
27f. Deer Lodge, Montana 59722			
28a. TO BE COMPLETED BY CERTIFYING PHYSICIAN ONLY. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated.		29a. TO BE COMPLETED BY CORONER ONLY. On the basis of examination and/or investigation in my opinion death occurred at the time, date and place and due to the cause(s) stated.	
(Signature and Title)		(Signature and Title)	
DATE SIGNED (Month, Day, Year)		DATE SIGNED (Month, Day, Year)	
28b. Feb. 24, 1998		29b. Feb. 24, 1998	
HOUR OF DEATH		HOUR OF DEATH	
28c. M 12:07A		29c. 12:07A	
NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)		DATE PRONOUNCED DEAD (Month, Day, Year)	
28d. John M. Pohle, Coroner, 601 Missouri Ave. Deer Lodge, Mt. 59722		29d. Feb. 24, 1998	
NAME AND ADDRESS OF CERTIFIER (PHYSICIAN OR CORONER) (Type or Print)		PRONOUNCED DEAD (Hour)	
29e. 12:07A			
LOCAL REGISTRAR'S SIGNATURE		DATE FILED (Month, Day, Year)	
31a. <i>[Signature]</i>		31b. 111	



guarantee against innocent people being killed. Since the death penalty was reinstated in the United States in 1976, more than 110 condemned prisoners have been released from death row.<sup>ii</sup> They were wrongfully convicted and sentenced to die for crimes they did not commit. Legal recourse in capital cases has not always proven to be an adequate safeguard for those who are innocent. At least twenty-three people executed since 1900 were later found to have been innocent.<sup>iii</sup>

The application of the death penalty is arbitrary and economically and racially biased. In 1996, the American Bar Association called for a suspension of the death penalty, because it was used disproportionately against the poor, against people of color and against those who were provided with inadequate or incompetent legal representation.

Executions, too, are far more expensive to carry out than life imprisonment. The costs associated with trying a capital case, maintaining a death row and performing executions are estimated to be two to six times higher than the cost of imprisoning an offender for life.<sup>iv</sup>

We support every effort to enforce prompt and effective punishment, when applied impartially and through due process of law, to perpetrators of violent crimes. We support efforts to strengthen victims' rights to restitution and community restoration. We decry a culture that glorifies violence as entertainment; that casually presents murder and mayhem to even our youngest children without a thought or qualm of conscience.

The death penalty is not morally justified in our current criminal justice system. There are other means to protect citizens from the most dangerous criminals, and to ensure public safety. The public holds justifiable and genuine concern that convicted murderers may be back on the streets in just a few years. Yet it is now

possible to sentence convicted murderers to life without the possibility of parole. In public surveys, when this is offered as an option, support for the death penalty drops significantly. As a result, we are confident the public increasingly supports the abolition of capital punishment.

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<sup>i, ii, iv,</sup> All statistical information taken from the Death Penalty Information Center. [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org). Accessed on 10/10/03.

<sup>iii</sup> Radelet, Michael L., Hugo Adam Bedau, and Constance E. Putnam. *In Spite of Innocence*. Pp. 272-273. Northeastern University Press: Boston. 1992.



## **CAPITAL PUNISHMENT**

### **Position Statement**

Adopted 10/21/80

The Montana Association of Churches opposes capital punishment and calls upon the Montana Legislature to abolish the death penalty.

### **Supporting Statement**

Revised 10/19/04

When a life is taken tragically and violently through homicide, such loss is beyond measure. The outrage and grief experienced by a victim's family members and the larger community are justified, and cause a heavy burden. We cannot deny or overlook the extreme pain and damage caused by such horrible acts. The community is right to seek justice for these crimes. Yet, we oppose the idea that execution is a means to achieve justice.

First, we look to the foundations of our faith and to the healing and reconciling message of our Lord Jesus Christ related in the Gospels.

In the Hebrew Scriptures, it is told that humans are created in the image of God. This forms the core of our opposition: because every human person is created in God's image, each possesses a dignity which cannot be denied. This is true of capital offenders, even though they have committed the most violent of crimes.

While many cite the Hebrew scriptures to support capital punishment, it can be said that the use of capital punishment was applied reluctantly and balanced with dignity and mercy. Even the scripture, "eye for eye, tooth for tooth" (Leviticus 24: 19-20), was not intended to set exact punishment. Rather it provided for the maximum permissible punishment as a means to ensure that penalties were not excessive.

Jesus, however, rejected the desire for retribution and called his followers to live by an even greater standard. "Love your enemies, do good to those who hate you... Do not judge, and you will be forgiven" (Luke 6: 27, 37). In light of the teachings and acts of Jesus, who was himself unjustly executed, we believe we are called to seek a justice which is based in love, not on revenge.

Thus, in light of our faith, we seek a justice which honors the sacredness of all life. We call for a justice which prevents violent offenders from injuring others and, at the same time, recognizes the capacity of individuals to repent and reform. We aspire to a justice which stops violence and is healing.

There are sound social arguments against capital punishment as well. These, too, enter into our position. In these, we stand with many others who oppose capital punishment on the basis of human rights and principles of justice.

The act of taking a life as retribution for homicide actually feeds the cycle of violence, decreasing our respect for human life and making our communities more, not less, dangerous. In this larger picture, capital punishment has not proven to be effective as a deterrent. Statistics would indicate, in fact, that homicide rates are higher in states with the death penalty than they are in states where it is not allowed.<sup>1</sup>

The death penalty can sometimes be mistakenly applied. Because execution is irrevocable, there are no safeguards to

**The New York Times**

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February 25, 2009

## Citing Cost, States Consider End to Death Penalty

By **IAN URBINA**

ANNAPOLIS, Md. — When Gov. Martin O'Malley appeared before the Maryland Senate last week, he made an unconventional argument that is becoming increasingly popular in cash-strapped states: abolish the death penalty to cut costs.

Mr. O'Malley, a Democrat and a Roman Catholic who has cited religious opposition to the death penalty in the past, is now arguing that capital cases cost three times as much as homicide cases where the death penalty is not sought. "And we can't afford that," he said, "when there are better and cheaper ways to reduce crime."

Lawmakers in Colorado, Kansas, Nebraska and New Hampshire have made the same argument in recent months as they push bills seeking to repeal the death penalty, and experts say such bills have a good chance of passing in Maryland, Montana and New Mexico.

Death penalty opponents say they still face an uphill battle, but they are pleased to have allies raising the economic argument.

Efforts to repeal the death penalty are part of a broader trend in which states are trying to cut the costs of being tough on crime. Virginia and at least four other states, for example, are considering releasing nonviolent offenders early to reduce costs.

The economic realities have forced even longtime supporters of the death penalty, like Gov. Bill Richardson of New Mexico, to rethink their positions.

Mr. Richardson, a Democrat, has said he may sign a bill repealing capital punishment that passed the House last week and is pending in a Senate committee. He cited growing concerns about miscarriages of justice, but he added that cost was a factor in his shifting views and was "a valid reason in this era of austerity and tight budgets."

Capital cases are expensive because the trials tend to take longer, they typically require more lawyers and more costly expert witnesses, and they are far more likely to lead to multiple appeals.

In New Mexico, lawmakers who support the repeal bill have pointed out that despite the added expense, most defendants end up with life sentences anyway.

That has been true in Maryland. A 2008 study by the Urban Institute, a nonpartisan public policy group, found that in the 20 years after the state reinstated the death penalty in 1978, prosecutors sought the death penalty in 162 felony-homicide convictions, securing it in 56 cases, most of which were overturned; the rest of the convictions led to prison sentences.

Since 1978, five people have been executed in Maryland, and five inmates are on death row.

Opponents of repealing capital punishment say such measures are short-sighted and will result in more crime and greater costs to states down the road. At a time when police departments are being scaled down to save money, the role of the death penalty in deterring certain crimes is more important than ever, they say.

"How do you put a price tag on crimes that don't happen because threat of the death penalty deters them?" said Scott Shellenberger, the state's attorney for Baltimore County, Md., who opposes the repeal bill.

Kent Scheidegger, legal director of the Criminal Justice Legal Foundation, an organization in Sacramento that works on behalf of crime victims, called the anticipated savings a mirage. He added that with the death penalty, prosecutors can more easily offer life sentences in a plea bargain and thus avoid trial costs.

But Eric M. Freedman, a death penalty expert at Hofstra Law School, said studies had shown that plea bargaining rates were roughly the same in states that had the death penalty as in states that did not.

"It makes perfect sense that states are trying to spend their criminal justice budgets better," he said, "and that the first place they look to do a cost-benefit analysis is the death penalty."

States are looking elsewhere as well.

Last year, in an effort to cut costs, probation and parole agencies in Arizona, Kentucky, Mississippi, New Jersey and Vermont reduced or dropped prison time for thousands of offenders who violated conditions of their release. In some states, probation and parole violators account for up to two-thirds of prison admissions each year; typical violations are failing drug tests or missing meetings with parole officers.

As prison crowding has become acute, lawsuits have followed in states like California, and politicians find themselves having to choose among politically unattractive options: spend

scarce tax dollars on expanding prisons, loosen laws to stem the flow of incarcerations, or release some nonviolent offenders.

The costs of death penalty cases can be extraordinarily high.

The Urban Institute study of Maryland concluded that because of appeals, it cost as much as \$1.9 million more for a state prosecutor to put someone on death row than it did to put a person in prison. A case that resulted in a death sentence cost \$3 million, the study found, compared with less than \$1.1 million for a case in which the death penalty was not sought.

In Kansas, State Senator Carolyn McGinn introduced a bill this month that would abolish the death penalty in cases sentenced after July 1. "We are in such a dire deficit situation, and we need to look at things outside the box to solve our budget problems," said Mrs. McGinn, a Republican. Kansas is facing a budget shortfall of \$199 million, and Mrs. McGinn said that opting for life imprisonment without parole rather than the death penalty could save the state over \$500,000 per capital case.

But skeptics contend that prosecutors will still be on salary and will still spend the same amount, just on different cases. In Colorado, lawmakers plan to consider a bill this week that would abolish the death penalty and use the savings to create a cold-case unit to investigate the state's roughly 1,400 unsolved murders. While the police must continue investigating these cases, there is no money in the budget for that. A group of families who lost relatives in unsolved murders has lobbied lawmakers on the bill.

In Virginia, competing sentiments are evident in the legislature.

While lawmakers have proposed allowing prison officials to release low-risk offenders up to 90 days before the end of their sentences, citing a potential saving of \$50 million, they are also considering expanding who is eligible for capital punishment to people who assist in killings but do not commit them and to people convicted of murdering fire marshals or auxiliary police officers who are on duty.

It is considered unlikely, however, that Gov. Tim Kaine, a Democrat who opposes capital punishment, would sign such a bill.

In 2007, New Jersey became the first state in a generation to abolish the death penalty.

That same year, a vote in Maryland to abolish the death penalty came up one vote short of passing. In December, however, a state commission on capital punishment recommended that Maryland abolish the death penalty because of the high cost and the danger of executing an innocent person.


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## Just or Not, Cost of Death Penalty Is a Killer for State Budgets

By Ed Barnes

Published March 27, 2010 | FOXNews.com

Every time a killer is sentenced to die, a school closes.

That is the broad assessment of a growing number of studies taking a cold, hard look at how much the death penalty costs in the 35 states that still have it.

Forget justice, morality, the possibility of killing an innocent man or any of the traditional arguments that have been part of the public debate over the death penalty: The new one is this:

The cost of killing killers is killing us.

"There have been studies of costs of the death penalty before, but we have never seen the same reaction that we are seeing now," says Richard C. Dieter of the non-partisan Death Penalty Information Center. "Perhaps it is because governments are looking for ways to cut costs, and this is easier than school closings or layoffs, but it sure has hit a nerve."

In the last year, four states — Kansas, Colorado, Montana and Connecticut — have wrestled with the emotional and politically charged issue. In each state there was a major shift toward rejection of the death penalty and narrow defeats for legislation that would have abolished it. In Connecticut, both houses actually voted in favor of a bill that would have banned executions, but the governor vetoed it.

Unlike past debates over executions, the current battles are fueled largely by the costs the death penalty imposes on states. The numbers, according to the studies, are staggering.

Overall, according to Dieter, the studies have uniformly and conservatively shown that a death-penalty trial costs \$1 million more than one in which prosecutors seek life without parole. That expense is being reexamined in the current budget crisis, with some state legislators advocating a moratorium on death-penalty trials until the economy improves.

An Urban Institute study of Maryland's experience with the death penalty found that a single death-penalty trial cost \$1.9 million more than a non-death-penalty trial. Since 1978, the cost to taxpayers for the five executions the state carried out was \$37.2 million dollars — each.

Since 1983, taxpayers in New Jersey have paid \$253 million more for death penalty trials than they would have paid for trials not seeking execution — but the Garden State has yet to execute a single convict. Of the 197 capital cases tried in New Jersey, there have been 60 death sentences, the report said, and 50 of the those convictions were overturned. There currently are 10 men on the state's death row.

A recent Duke University study of North Carolina's death penalty costs found that the state could save \$11 million a year by substituting life in prison for the death penalty. An earlier Duke study found that the state spent \$2.1 million more on a death penalty case than on one seeking a life sentence.

The Tennessee Comptroller of the Currency recently estimated that death penalty trials cost an average of 48 percent more than trials in which prosecutors sought life sentences.

It was much the same story in Kansas. A state-sponsored study found that death penalty cases cost 70 percent more than murder trials that didn't seek the death penalty.

A Florida study found the state could cut its costs by \$51 million simply by eliminating the death penalty.



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But no state matches the dilemma of California, where almost 700 inmates are sitting on death row and, according to Natasha Minsker, author of a new report by the Northern California chapter of the American Civil Liberties Union, few will ever actually be put to death. In fact, she says, the odds against being executed are so great, murder suspects in California actually seek the death penalty because it is the only way to get a single room in the state's prison system.

"Only 1 percent of people sentenced to death in California in the last 30 years have been executed," Minsker said. "The death penalty in California is purely a symbolic sentence."

Her study found that the cash-strapped state could immediately save \$1 billion by eliminating the death penalty and imposing sentences of life without parole. The alternative, if the cash-strapped state keeps the death penalty: spend \$400 million to build a new death-row prison to house the growing number of prisoners.

Minsker said just keeping prisoners on death row costs \$90,000 more per prisoner per year than regular confinement, because the inmates are housed in single rooms and the prisons are staffed with extra guards. That money alone would cut \$63 million from the state budget. But other savings would ripple through every step of the criminal justice system as well, from court costs to subsidized spending for defense attorney and investigation expenses.

Will the economic slump and every state's need to cut budgets have an impact? Death penalty opponents say the recession has given their effort a new, non-political reason for abolition that resonates on both sides of the debate. But Professor Paul Cassell, the Ronald N. Boyce Presidential Professor of Criminal Law at the University of Utah and a death penalty expert, says that major changes are not likely to occur soon.

"You can make the argument that it is cheaper not to have the death penalty" he said, but that is not what the death penalty is about.

The death penalty "provides a sense of justice to the system, is a just punishment for murder and has a deterrent effect on crime," he said. "Besides, the amount of money saved is not that big compared to what the entire justice system spends."

"Moreover," he said, "polls show that 70 to 80 percent of people support the death penalty. And that isn't going to change."

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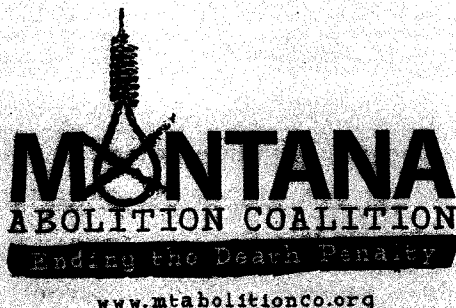
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## Montana's Death Penalty: Wasteful and Expensive

Many people are surprised to learn that the death penalty's complexity and finality make it much more expensive than life without parole. **Capital punishment is a bloated government program that has clogged our courts, delayed justice for victims' families, and devoured millions of crime-fighting dollars.**

### How much *does* the death penalty cost?

- ♦ The most rigorous cost study in the country found that a single death sentence in Maryland costs almost \$2 million more than a comparable non-death penalty case. Maryland spent \$186 million extra to carry out just five executions.<sup>i</sup>
- ♦ More than a dozen states have found that the death penalty is up to 10 times more expensive than sentences of life or life without parole.<sup>ii</sup>
- ♦ The death penalty costs more than just dollars. In the time it takes to pursue one capital case, scores of non-capital cases could be solved and prosecuted. Instead, many crimes go unsolved or unprosecuted, and those responsible are free to commit more serious crimes.
- ♦ Montana has never conducted a comprehensive study of what the death penalty in totality has cost our state. However, we can give an example comparison in one cost area. A case in Gallatin County where the state was initially seeking the death penalty cost the Montana Public Defender system **\$115,000**. A similar case in Lewis and Clark County where the state was not seeking the death penalty cost the Montana Public Defender system only **\$3,200**.<sup>iii</sup>
- ♦ In most cases where the death penalty is sought, it is never imposed. And when it is imposed, it is rarely carried out. Almost half of Montana's death sentences have ended with a life sentence after taxpayers have already paid much more for death penalty proceedings. A death penalty that is so rarely used is simply another name for life without parole, at an exponentially greater cost.

**"I saw how Pondera County  
was almost bankrupt by the  
cost of the death penalty"**

- Betsy Griffing  
Former Montana Assistant Attorney General

### Why does it cost so much?

- ♦ The death penalty process is more complicated because a life is on the line. Capital cases involve more lawyers, more witnesses, more experts, a longer jury selection process, more pre-trial motions, an entirely separate trial to determine the sentence, and countless other expenses – racking up exorbitant costs even before a single appeal is filed.
- ♦ The majority of the death penalty's costs never appear as line items in any budget. They are simply hours spent by judges, clerks, prosecutors, and other law enforcement agencies – time that could be spent investigating, prosecuting, and sentencing other cases.
- ♦ Most death penalty trials have significant flaws and must be re-tried, sometimes more than once. This only adds to the high cost of the death penalty.